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SUBJECT: New AML Law: Better Than Nothing, But Implementation Will  
Be Important

Refs: (A) 03 Ulaanbaatar 015, (B) 03 Ulaanbaatar 630, (C)

Ulaanbaatar 475, (D) Ulaanbaatar 537

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¶1. (SBU) SUMMARY: At the end of June, Mongolia's parliament passed the country's first anti-money laundering (AML) law. The step followed years of foreign exhortations, including and especially from the United States, about the danger that Mongolia might become a money laundering center. There were sharp differences in Mongolia about the details of the new law, helping to explain why it took three years to be presented to parliament. Parliament, though, appears to have been so distracted by other important pending legislation that legislators appear to have not carefully considered all of the details. With the focus now on implementing the new law, there are doubts about Mongolia's capacity and political will. Mongolian officials have expressed a strong desire for technical assistance, much of which likely will be routed through the Asia Pacific Group (APG). On August 31, the Embassy hosted a DVC between APG and a spectrum of Mongolian officials, with a view toward kick starting cooperation in advance of APG's first review of Mongolia, which is scheduled for December. END SUMMARY.

The Context

¶2. (U) The lack of an appropriate legal framework and weak oversight of the banking sector have helped to make Mongolia a tempting place to launder money (ref a). Mongolia's geographic location also makes it a potentially convenient destination for dirty money departing North Korea, China, or Russia. While no hard evidence of money-laundering has yet emerged, there is anecdotal evidence it exists; and Mongolia has been awash in cash and unexplained economic activity.

¶3. (SBU) The passage of the AML bill comes with the aid of significant external incentives. For several years, the U.S. and

other donors have strongly signaled Mongolia about the urgent need to adopt improved AML safeguards, including AML legislation consistent with international best practice standards (ref b). Donors have made clear that failure to act would carry important consequences for Mongolia's international reputation. The Asian Development Bank (ADB) made passage of the AML bill an explicit precondition for release of the first tranche of a financial sector budget support program for Mongolia. Treasury Deputy Assistant Secretary Glaser's visit this June (ref C) continued U.S. pressure.

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Meanwhile, tighter banking practices elsewhere provided supplemental pressure. Mongolian banks have found it increasingly hard to gain correspondent banking relationships, because the country's lack of an AML raised a red flag with foreign banks' own compliance officials.

#### Differences Over the Details

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14. (SBU) A working group consisting of Mongol Bank and Ministry of Finance officials began drafting AML and anti-terrorist financing legislation in late 2003. The original draft of the bill followed UN model legislation with some adjustments to accommodate Mongolia's legal system. However, the inability of successive governments to reach compromise on various technical details delayed the bill from reaching Parliament until earlier this year. Even after the draft was submitted, sharp internal differences persisted. During DAS Glaser's visit in early June, a roundtable with Ministry of Justice and law enforcement officials degenerated into a heated shouting match among Mongolian participants regarding the details of the then pending law.

15. (U) One of the more intractable arguments was resolved when it was agreed that the Financial Intelligence Unit (FIU) in charge of

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AML oversight and investigations would be housed in Mongol Bank. Both Mongol Bank and the Ministry of Finance had initially laid claim to the FIU. Another thorny issue concerned the amount of power that would be granted the FIU, reflecting the tension between, on the one hand, a need to grant FIU sufficient independence and power to fulfill its mandate; and on the other hand, the aversion of many members of Parliament (MPs) to the idea of creating another clandestine inspection body in the mold of the General Intelligence Agency. While a compromise has been reached based on the letter of the law, it remains to be seen how this tension will play out on the operational side.

16. (U) Another disagreement arose over the cash reporting limit, with some arguing that, since Mongolia is a largely cash-based society, limits should be set high; otherwise, technical and bureaucratic capacity constraints might make it difficult to monitor a large number of reportable transactions. Some MPs had tried to push for a cash reporting limit of Tg50 million (roughly \$42,000 at the current exchange rate of USD 1.00 = MT 1165). The new AML law imposes a cash reporting limit of Tg20 million (roughly \$17,000).

#### The Law Passes

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17. (SBU) On June 29, parliament passed the AML (ref D). Parliament gave limited scrutiny to the AML bill, because they faced a crowded Spring session agenda (which included several major tax reform bills, anti-corruption legislation, and significant amendments to the minerals law) and fervently desired to wrap up business before the approaching Naadam holiday. MP Oyun -- as conscientious a legislator as exists in parliament -- candidly told a recent gathering of foreign businessmen that, when the AML bill was brought to a vote, she and many other MPs were so focused on negotiations over the recent tax bills, that they voted to support the AML bill without bothering to consider its content. Parliament knew that it needed to pass an AML bill, and here it was.

18. (U) After several weeks of post-passage "technical review" by parliamentary staff and the Speaker, a text of the law was released.

An English translation of the bill has been passed to DOJ as well as Treasury's Terrorist Financing and Intelligence unit in Washington, DC. Embassy awaits DOJ's opinion of the legislation. The Mongolian government's informal translation of the law is available at the source below. However, ADB technical assistance personnel have commented that the translation is rough and inexact, and expect Mongol Bank to issue a corrected translation in a few weeks. We will post the revised version when available, and will email it to Washington agencies.

[http://www.geocities.com/freemanpj/AML\\_law.htm](http://www.geocities.com/freemanpj/AML_law.htm).

Parliament's website has the Mongolian text:

<http://www.parl.gov.mn/parl/docs/LL/06-h-19.doc>

#### Implementation and External Technical Assistance -----

¶9. (SBU) With an AML law in place, the focus turns to implementation. The somewhat disinterested nature of domestic support for the AML bill raises concerns that the legislation was a gesture to appease donors, and that as a result, the need for follow-on enforcement measures will fail to gain traction. However, Mongolian officials, and officials at Mongol Bank in particular, have been vocal in asking for donor technical assistance (TA) on AML implementation.

¶10. As part of its financial sector budget support program for Mongolia, the ADB will be dispatching a TA team to assist in the establishment of the FIU in Mongol Bank. Mongolia's first mutual evaluation (ME) with the Asia Pacific Group (APG), currently

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scheduled for December, will provide an excellent opportunity to diagnose its technical needs. The Embassy has told Mongolian officials, per Washington's direction, that any U.S. technical assistance will be delivered through the APG.

#### August 31 Videoconference With APG -----

¶11. To help ensure a good start to mutual engagement, the Embassy hosted a digital video conference between APG and Mongolian interagency officials on August 31. The chief aim of the event was to provide the Mongolians with an opportunity to learn about the ME process and its significance as an internationally-recognized diagnostic mechanism. Members of the ADB TA team assisting in the establishment of the Mongol Bank FIU, as well as a small group of Mongolian commercial bankers, attended. Both the APG and the Mongolian government attendees expressed pleasure with the ability to have a direct exchange as Mongolia prepares for the evaluation. The APG commented that the dialogue set a useful precedent it likely will seek to use with other countries undergoing their first APG evaluation, and specifically mentioned Cambodia as one such country.

¶12. The Embassy is especially grateful for the assistance of ConGen Sydney, which will be hosting the APG officials taking part.

Slutz